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ATTORNEY GENERALS OFFICE  
HELENA, MONTANA

NANCY SWEENEY  
CLERK - DISTRICT COURT

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FILED

BY: J. BOSTON

MONTANA FIRST JUDICIAL DISTRICT, LEWIS & CLARK COUNTY

THE STATE OF MONTANA, ex rel.  
Mike McGrath, Attorney General,

Plaintiff,

v.

P.T. BENTOEL PRIMA, a.k.a. P.T.  
BENTOEL PRIMA MALANG,

Defendants.

Cause No. ADV-2004-472

**ORDER OF DEFAULT  
JUDGMENT**

This matter is before the Court on the Plaintiff's ex parte motion for default judgment against the Defendant. This Court having reviewed the motion and the entire record in this matter hereby finds as follows:

1. Plaintiff is the Attorney General's Office of the State of Montana and, pursuant to Mont. Code Ann. § 16-11-403, is authorized to bring this action to enforce Montana's Tobacco Products Reserve Fund Act ("the Act").

2. Defendant, P.T. BENTOEL PRIMA, a.k.a. P.T. BENTOEL PRIMA MALANG (P.T. BENTOEL), is a corporate entity doing business in Indonesia. It falls within the statutory definition of a tobacco product manufacturer in Mont. Code Ann. § 16-11-401(9)(a).

1           3.     P.T. BENTOEL was properly served with the Summons and  
2 Complaint on September 27, 2004, in accordance with the Montana Rules of Civil  
3 Procedure.

4           4.     At least 20 days have passed since the service of the Summons and  
5 Complaint and P.T. BENTOEL has failed to appear herein.

6           5.     P.T. BENTOEL is not an infant or incompetent.

7           6.     Venue is proper pursuant to Mont. Code Ann. § 25-2-124.

8           7.     Default was entered against P.T. BENTOEL on December 10, 2004.

9           8.     P.T. BENTOEL has failed and continues to fail and/or refuses to  
10 comply or otherwise bring itself into compliance with the Act.

11          9.     P.T. BENTOEL's actions constitute "knowing" violations.

12          10.    P.T. BENTOEL has failed to make the required annual deposits for  
13 four years and has committed at least two knowing violation of the Act.

14          THEREFORE, P.T. BENTOEL is in default and default judgment is hereby  
15 entered against it as follows:

16          1.     P.T. BENTOEL shall, within 15 days of this Order, establish a  
17 "qualified escrow fund" in full compliance with the requirements of Mont. Code  
18 Ann. § 16-11-403(2)(c)(ii) in a form satisfactory to the Attorney General of the  
19 State of Montana;

20          2.     P.T. BENTOEL shall, within 15 days of this Order, deposit funds of  
21 at least \$159.86 for sales in year 2003 into a "qualified escrow fund" as defined in  
22 Mont. Code Ann. § 16-11-403(2)(c)(ii) for the State of Montana;

23          3.     P.T. BENTOEL shall, within three days of the escrow payment being  
24 made as ordered above, file with the Attorney General's Office of Montana a  
25 Certificate of Compliance in a form satisfactory to the Attorney General of the State  
26 of Montana as required under Mont. Code Ann. § 16-11-403(2)(c);  
27

1           4.     P.T. BENTOEL shall, within 15 days of this Order, submit an  
2     accounting of the unit sales of each cigarette brand sold to consumers in the State of  
3     Montana through a distributor, retailer, or similar intermediary or intermediaries, to  
4     the satisfaction of the Attorney General's Office of Montana. The accounting shall  
5     include a summary report disclosing the contractual and other relationships between  
6     P.T. BENTOEL and its successors, affiliates, subsidiaries, distributors, importers,  
7     wholesalers, and retailers as required by the Attorney General or his designee to  
8     audit, examine, reconcile, and confirm the unit sales accounting provided;

9           5.     P.T. BENTOEL shall, within 15 days of this Order, pay the maximum  
10    civil penalty under the requirements of Mont. Code Ann. § 16-11-403(2)(c)(ii) of  
11    \$479.58;

12          6.     P.T. BENTOEL shall, within 15 days of this Order, pay the costs of  
13    investigation, costs of suit, and reasonable attorney's fees in the amount of  
14    \$1,104.97; and

15          7.     P.T. BENTOEL shall pay post-judgment interest in the amount of  
16    10% per annum as allowed by Mont. Code Ann. § 25-9-205.

17           This Court retains jurisdiction over this matter in order to administer and  
18    enforce its terms and to make amendments to reflect any additional sales by P.T.  
19    BENTOEL based upon affidavits or declarations filed by the State substantiating  
20    any new information of additional sales discovered, or new determinations made by  
21    the State regarding sales attributed previously to others during the relevant sales  
22    years which should be reattributed to the Defendants.

23    **MONEY JUDGMENT**

24           1) Name/Address of Judgment Creditor:

25                   State of Montana  
26                   c/o Attorney General's Office  
27                   215 N. Sanders  
                    Helena, MT 59601

2) Name/Address/Phone of Judgment Creditor's Attorney:

**Ms. Kelly M. O'Sullivan**  
**Assistant Attorney General**  
**215 N. Sanders**  
**P.O. Box 201401**  
**Helena, MT 59620-1401**

3) Name/Address of Judgment Debtors:

**P.T. BENTOEL Industries Limited**  
**Jalan Raya Karanglo**  
**Singosari, Malang 65153 Indonesia**

Its successors, affiliates and/or assigns.

4) Principal Amount of Judgment  
for Escrow: \$159.86

5) Principal Amount of Judgment  
for Penalties: \$479.58

6) Costs, Investigative Costs and Reasonable Attorney's Fees	\$1,104.97
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Total	\$1,744.41
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7) Post-Judgment Interest--Pursuant to Mont. Code Ann. § 25-9-205 on the total judgment which consists of the amounts in paragraphs 4, 5, and 6 above (\$1,744.41) from the date judgment is entered until fully paid.

**JUDGMENT IS FURTHER ENTERED AS FOLLOWS:**

P.T. BENTOEL, and its agents, servants, employees, representatives, subsidiaries, successors, affiliates, and all persons acting in concert with it, should be permanently enjoined and restrained from selling any cigarette as defined in Mont. Code Ann. § 16-11-402(4) that it may “manufacture” or “purchase for resale” as contemplated by Mont. Code Ann. § 16-11-402(9) to consumers within the State of Montana, whether directly or through a distributor, retailer, or similar intermediary or intermediaries for a period of two years from the date that

1 Defendants achieve compliance with the requirements of Mont. Code Ann. § 16-11-  
2 403 to the satisfaction of the Montana Attorney General, including but not limited  
3 to the following brands: Jakarta, Krakatoa, and Kuta.

4 The injunction against further sales by P.T. BENTOEL shall continue for  
5 two years from the date of the Order.

6 This Court retains jurisdiction over this matter in order to administer and  
7 enforce its terms and to make amendments to reflect any additional sales by P.T.  
8 BENTOEL based upon affidavits or declarations filed by the State substantiating  
9 any new information of additional sales discovered, or new determinations made by  
10 the State regarding sales attributed previously to others during the relevant sales  
11 years which should be reattributed to the Defendants.

12 DATED this 17 day of December, 2004.

13  
14 DOROTHY W. CARTER

15 \_\_\_\_\_  
16 DISTRICT COURT JUDGE

17 c: Ms. Kelly O'Sullivan  
18 P.T. BENTOEL  
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